APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,331	03/01/2000	Satoshi Yoshizawa	16869C-54US	3731

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EXAMINER
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2661	6

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _03 May 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-57_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _41-50_ is/are allowed.

6)☒ Claim(s) _1-40, 51-57_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

FINAL ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act

of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior

to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2.   Claims 1-4, 8-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Gai.

US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows

applying quality for service to the flows, comprising a data delivery system having a data

server (222 in Fig. 2) in data communication with plural devices (i.e. 212 and 214 in

Fig. 2), a method of changing current network device attribute of a target device

comprising transmitting first information (start up message 410 , col 7 lines 65-67, col 8

lines 1-9) from said data server to said target network device, said first information

comprising at least one network device attribute(application identifier attribute) , storing

said network device attribute in said target device (Program 224 in Server 222 causes

component 226 lo load information in end station 212, col 8 lines 53-58), transmitting

second information from said data server to said target device (flow declaration

component may return the set up message 414) and in response to receiving said second

information changing said current attribute in accordance with said new device attribute

(component 226 may rewrite attributes, col 17 lines 66-67, col 18 lines 1-21, col 21

lines 36-44, col 22 lines 6-10) , as in claim 1; wherein said attribute is a QOS setting (col

8 lines 10-12), as in claim 2; said first information includes an address of said target

device (said attribute is a globally unique identifier i.e. address, col 8 line 5) as in claim

3; transmitting said second information in form of a data packet destined for a client (col

16 lines 28-30), as in claim 4; incorporating said first information in a data packet

destined to a client (assuming packets correspond to flow from program 24 to end

station 212 in Fig. 2, col 16 lines 28-30) , as in claim 8; incorporating said first

information in a data packet that is not destined to a client (col 16 lines 28-30), as in

claim 9.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 10-12, 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Gai.

US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows

applying quality for service to the flows, wherein in a data delivery system having a data

server (222 in Fig. 2) in communication with plural network devices (i.e. 212 and 214

in Fig. 2), a method of changing QOS (one of the argument is QOS, col 8 lines 10-12) of

a target device comprising transmitting first information from said data server to said

target network device (start up message 410 , col 7 lines 65-67, col 8 lines 1-9) and

comprising at least an attribute , storing parameter in said target device (Program 24 in

Server 222 causes component 226 lo load information in end station 212, col 8 lines 53-

58), transmitting second information from said data server to said target device (flow

declaration component may return the set up message 414) and in response changing

said attribute in accordance with said stored parameter, as in claim 10; said first

information includes an address of said target device (said attribute is a globally unique

identifier i.e. address, col 8 line 5), as in claim 11; incorporating said second information

in a data packet destined to a client (col 16 lines 28-30), as in claim 12; incorporating

said first information in a data packet destined for a client (assuming packets correspond

to flow from program 24 to end station 212 in Fig. 2, col 16 lines 28-30) , as in claim 16;

incorporating said first information in a data packet that is not destined for a client

(col 16 lines 28-30), as in claim 17; accumulating a list of plural entries in said target

device, each entry including an attribute parameter, as in claim 18; said first information

is a list of plural entries (Fig. 5B), as in claim 19; changing said attribute includes

indexing into said list on the basis of said index(different service policies in Fig. 5B), as

in claim 20.

Gai did not specifically said first information being a new QOS, as in claim 10.

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention that one of the arguments in program 224 to be transmitted as a

flow to the devices is a QOS argument (col 8 lines 10-12), said attribute could also

possibly be a new QOS with the motivation of obtaining a system wherein traffic flows

can be managed according to corresponding policies.

5.   Claims 21-30, 51-57 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Gai.

US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows

applying quality for service to the flows, wherein a data server (data server 222 in Fig. 2)

configured to transmit data packets to a network, at least one network device configured

to receive and transmit said packets , said data server configured to transmit a first

information to said device (start up message 410 , col 7 lines 65-67, col 8 lines 1-9), said

information representing a setting of said device and comprising at least one QOS

parameter, said device having a memory, said data server configured to transmit second

information to said device, said device configured to change its setting in accordance

with said first information in response to receiving said second information (component

226 may rewrite attributes, col 17 lines 66-67,col 18 lines1-21, col 21 lines 36-44, col 22

lines 6-10), as in claim 21; said second information is incorporated into a data packet for

a client (col 16 lines 28-30), as in claim 22; said device configured to change QOS prior

to forwarding said packet, as in claim 23; said device configured to change QOS after

forwarding said packet, as in claim 24; said second information incorporated in said

packet and not destined for a client, as in claim 25; said first information is incorporated

in said a packet destined for a client (assuming packets correspond to flow from

program 24 to end station 212 in Fig. 2, col 16 lines 28-30) , as claim 26; said first

information is incorporated in said packet not destined for a client (col 16 lines 28-30), as

in claim 27; said memory configured to contain a list of QOS setting, as in claim 28.

In a data server configured for delivering data to a client over a network having one or

more devices , comprising communicating first information (start up message 410 , col

7 lines 65-67, col 8 lines 1-9) to at least one target device(i.e. device 212 in Fig. 2), said

first information representing an attribute comprising one or more parameters, producing

a first data packet to said device, wherein said device respond by setting its attribute in

accordance with said information (component 226 may rewrite attributes, col 17 lines

66-67,col 18 lines1-21, col 21 lines 36-44, col 22 lines 6-10), as in claim 51; said

information is a list of plural entries having one or more QOS parameters, as in claim 52;

said list containing plural entries, each entry containing a QOS parameter(different

service policies in Fig. 5B), as in claim 53; said first data packet includes data destined

for a client (col 16 lines 28-30), as in claim 54.

Gai did not specifically said setting being a QOS setting, as in claims 21 and 51.

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention that one of the arguments in program 224 to be transmitted as a

flow to the devices is a QOS argument (col 8 lines 10-12), said attribute could also

possibly be a new QOS with the motivation of obtaining a system wherein traffic flows

can be managed according to corresponding policies.

6.   Claims 31, 34-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Gai.

US patent No. 6,651,101 (Gai et al) discloses a method for identifying data traffic flows

applying quality for service to the flows, wherein in a network device (Computer device

212 in Fig. 2), a method of setting QOS comprising acquiring at least one QOS parameter

from an external source (source being server 222 in Fig. 2), receiving data packets of a

first type (start up message 410 , col 7 lines 65-67, col 8 lines 1-9) which are to be

transmitted from said device and a second type (flow   declaration component may return

the set up message 414) which are to be retained within said device, for each received

data packet inspecting it for information of a first kind and in response to said

information setting said attribute (component 226 may rewrite attributes, col 17 lines

66-67,col 18 lines1-21, col 21 lines 36-44, col 22 lines 6-10), as in claim 31; said

information of said first kind is contained in a packet of a second kind (col 16 lines 28-

30), as in claim 34; extracting said QOS parameter from a received packet, as in claim

35; QOS parameter is contained in a data packet of a first kind, as in claim 36; QOS

parameter is contained in a data packet of a second kind, as in claim 37; a list of plural

entries, each containing a QOS parameter (Fig. 5B) , as in claim 38; said list containing

plural entries, each entry containing a QOS parameter (different service policies in Fig.

5B), as in claim 39.

Allowable Subject Matter

7.   Claims 41-50 are allowed.

8.   Claims 5-7, 13-14, 32-33, 40 are objected to as being dependent upon a rejected

base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claim.

Conclusion

9.   Applicant's arguments filed On 5/3/04 have been fully considered but they are not

persuasive. Applicant argues that Gai fails to disclose transmission of first information

from a data server to a target device of at least one network device attribute. Examiner

does not agree since Gai discloses issuing said first information as a start up message

210 as part of the communication i.e. -transmission - of application program 224 from

server 222 to end station –i.e. target device - 212 (col 7 lines 65-67, col 8 lines 1-10, col

9 lines 18-21) comprising at least one network device attribute –i.e. application identifier

attribute-.

Further applicant argues that Gai fails to disclose storing said attribute in said target

device. Examiner disagrees since Gai discloses Program 224 causing flow declaration

component 226 to load –i.e. store- the corresponding traffic flow data structure at end

station –i.e. target device- 212 (col 8 lines 53-58).

10.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply expire later than

SIX MONTHS from the mailing date of this final action.

11.   **Any response to this final action should be mailed to:**

  Box AF

    Commissioner of Patents and Trademarks

    Washington, D.C. 20231

  or faxed to:

    (703) 872-9314

  (for formal communications; please mark "EXPEDITED PROCEDURE", for

informal or draft communications, please label "PROPOSED" or "DRAFT")

    Hand-delivered responses should be brought to Crystal Park II, 2121

Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

  Any inquiry concerning this communication or earlier communications from the

examiner should be directed to **Ricardo Pizarro** whose telephone number is **(703) 305-

1121.** The examiner can normally be reached on Monday-Thursday from 9:00 AM to

5:00 PM.

  If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, **Douglas Olms,** can be reached on **(703) 305-4703.**

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the Group receptionist whose telephone number is (703)

305-4700.

July 24, 2004

Ricardo M. Pizarro

KENNETH VANDERPUYE
PRIMARY EXAMINER